IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 226 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 09/09/2004 in WP NO : 17591 OF 1999 on the file of the High Court.)

Between:

1 Under Secretary to Government, Government of India, Ministry of Home Affairs, North Block, New Delhi.
2 Deputy Inspector General, Central Industrial Security Force, (Southern Zone),Madras.
3 The Commandant, Central Industrial Security Force, (Ministry of Home Affairs) Visakhapatnam Steel Project, Visakhapatnam.

..... APPELLANTS

AND

Joseph Chacko, S/o M.C. Chacko,
R/o Malaymundakkal, Uzhavoor East PO, Kottayam District, Kerala.

.....RESPONDENT

Counsel for the Appellants : MR.KANTHI.NARAHARI, ADDITIONAL STANDING COUNSEL FOR CENTRAL GOVERNMENT

Counsel for the Respondent: MR.M.SURENDER RAO

The Court at the stage of admission, made the following ORDER: (per SAR,J)

The writ appeal is filed by the appellants-respondents aggrieved by the order of a learned single Judge of this Court under which the order of removal from service imposed against the respondent-writ petitioner was set aside by substituting a punishment of stoppage of two annual increments without cumulative effect.

The learned counsel for the appellants-respondents contended that the learned single Judge was not justified in quashing the order of punishment imposed on the respondent-writ petitioner. According to the learned counsel, because of the negligence of the respondent-writ petitioner who was working as a constable in the Central Industrial Security Force (CISF) and who was discharging the duties of a driver, the vehicle, which he was driving, came to a standstill causing loss and inconvenience to the Officers travelling in the vehicle. Therefore, disciplinary proceedings were initiated against the respondent-writ petitioner and ultimately it was found that he was negligent and was imposed the punishment of removal from service. In the light of the said finding, recorded by the disciplinary authority as well as the Enquiry Officer, the learned single Judge was not justified in setting aside the order of removal from service. Therefore, sought to sustain the order of punishment imposed by the disciplinary authority.

The learned counsel appearing for the respondent-writ petitioner, on the other hand, contended that imposing the punishment of removal from service is shockingly disproportionate to the alleged negligence. Even with reference to the finding of negligence, he further contended that it is not because of the negligence that the vehicle driven by the respondent-writ petitioner has come to a standstill but because

of the burst of the hosepipe, which had the effect of increasing the temperature of the radiator and the engine. Therefore, there was absolutely no negligence on the part of the respondent-writ petitioner. The learned counsel also contended that the learned single Judge having set aside the order of removal from service ought not to have substituted some other punishment.

Heard both sides and considered the material available on record.

The respondent-writ petitioner was working as a constable in the Central Industrial Security Force (CISF) and was discharging his duties as a driver of the vehicle. When he was discharging the duties as a driver of the vehicle, the hosepipe of the engine was broken, as a result, the radiator failed to work and the temperature of the engine had gone up and the engine came to a standstill. For this, the respondent-writ petitioner was charge sheeted and basing on the findings, he was imposed the punishment of removal from service. The said order of the disciplinary authority was confirmed by the appellate authority. Though the respondent-writ petitioner filed an O.P before the High Court of Kerala, but the same was dismissed on the ground that it had no territorial jurisdiction. But, however, he was directed to file a revision as provided under Section 9(3) of the Central Industrial Security Force (CISF) Act and the revision filed by him was also dismissed. Hence, the respondent-writ petitioner filed the writ petition before this Court. The learned single Judge after considering the material on record found that even if there was some negligence on the part of the respondent-writ petitioner, it was only trivial in nature. Therefore, the punishment that was imposed on the respondent-writ petitioner was shockingly disproportionate, as by the date of imposing of the punishment, the respondent-writ petitioner had rendered nine years of unblemished service. Therefore, the impugned order was set aside. But, however, the learned single Judge substituted a lesser punishment of stoppage of two annual increments without cumulative effect in the place of punishment of removal from service, imposed by the appellants-respondents.

Though the learned counsel appearing for the appellants-respondents sought to set aside the order of the learned single Judge of this Court in order to sustain the order of removal from service, on consideration of the material on record, we are unable to accept the said contention and according to this Court, setting aside the order of removal from service is proper and just. But, however, with reference to the imposition of substituted punishment, as it is not within the jurisdiction of this Court and as the said imposition of substituted punishment is also not in accordance with

the Judgment of the Supreme Court in ***B.C.CHATURVEDI V.UNION OF INDIA,*** the imposition of substituted punishment of stoppage of two annual increments without cumulative effect is set aside. As a result, the respondent-writ petitioner is entitled for all consequential benefits of reinstatement and other attendant benefits including back wages as ordered by the learned single Judge.

Accordingly, the writ appeal is disposed of.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

DT: 14.02.2005

bsv/lvl

To

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4 Two CD copies